



House of Representatives

General Assembly

File No. 205

February Session, 2000

Substitute House Bill No. 5586

House of Representatives, March 23, 2000

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning A Consumer's Right To Privacy.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 (NEW) (a) As used in this section:

2 (1) "Retailer" means any person who sells goods used primarily for
3 personal, family or household purposes to a person who is not in the
4 business of reselling such goods;

5 (2) "Discount card or device" means any card or device issued by a
6 retailer to a consumer, that the consumer may use to obtain a discount
7 when making purchases from the retailer, including, but not limited
8 to, a scanner card;

9 (3) "Consumer" means an individual who is an actual or prospective
10 purchaser of goods used primarily for personal, family or household
11 purposes;

12 (4) "Consumer information" means information that identifies a

13 consumer and that is obtained by a retailer from the consumer's use of
14 a discount card or device issued by the retailer in the course of the
15 retailer's business, but does not mean financial information; and

16 (5) "Financial information" means information identifying a
17 consumer's checking or savings account number, credit card account
18 number, debit card account number or the names of the institutions
19 with which the consumer holds such accounts.

20 (b) No retailer who issues, or has issued, a discount card or device
21 in this state to a consumer may sell, lease or relinquish to any other
22 person, firm or corporation any consumer information, unless (1) the
23 retailer provides reasonable prior written notice to the consumer, (2)
24 the retailer provides the consumer with the option, at the time the
25 consumer applies for the discount card or device or at the time the
26 consumer receives an unsolicited discount card or device, of
27 preventing the retailer from selling, leasing or relinquishing such
28 information, and (3) the consumer does not exercise such option to
29 prevent the retailer from selling, leasing or relinquishing such
30 information.

31 (c) Such notice shall (1) state that information identifying the
32 consumer may be sold, leased or relinquished to other persons, firms
33 or corporations, (2) describe the purposes for which such information
34 would be used, and (3) include a form the consumer may use to
35 prevent the retailer from selling, leasing or relinquishing such
36 information.

37 (d) No retailer who issues, or has issued, a discount card or device
38 in this state to a consumer may sell, lease or relinquish to any other
39 person, firm or corporation any financial information.

40 (e) The provisions of this section do not apply to the sale, lease or
41 relinquishing of consumer information by a retailer to another person,
42 firm or corporation that directly or through one or more

43 intermediaries, controls, or is controlled by, or is under common
44 control with, such retailer.

45 (f) Notwithstanding the provisions of subsections (b) and (d) of this
46 section, a retailer may relinquish consumer information and financial
47 information to a person, firm or corporation for the purpose of (1)
48 making a credit report, as defined in section 36a-695 of the general
49 statutes, provided such information may be relinquished only if the
50 discount card or device also functions as a credit card, as defined in
51 section 53a-128a of the general statutes, or (2) performing or providing
52 services used for the delivery of such retailer's billing statements.

53 (g) Notwithstanding the provisions of subsection (b) of this section,
54 a retailer may relinquish consumer information to a person, firm or
55 corporation for the purpose of performing or providing services used
56 for the delivery of such retailer's promotional offers.

57 (h) Any violation of any provision of this section shall be deemed an
58 unfair or deceptive trade practice under subsection (a) of section 42-
59 110b of the general statutes.

GL Committee Vote: Yea 14 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Department of Consumer Protection

Municipal Impact: None

Explanation**State Impact:**

The bill prohibits businesses from selling, leasing or relinquishing personally identifiable information under certain circumstances, and deems violations of such to be an unfair trade practice. Under the Unfair Trade Practices Act, the Department of Consumer Protection (DCP) has two methods for resolving complaints: 1) formal administrative hearings; or 2) forwarding the complaint to the Attorney General's office for litigation. If most of the cases are handled administratively by DCP, the workload increase to the Office of the Attorney General is expected to be minimal and can be handled within the agency's anticipated budgetary resources. Under the Unfair Trade Practices Act, civil penalties can be imposed for violations, thus, a revenue gain to the General Fund is anticipated. The extent of the additional revenue cannot be determined, as it would depend upon the number of violations which occurred and the amount of the penalties that are imposed. There would be a minimal workload increase for the Department of Consumer Protection associated with the possible hearings as a result of this bill. This, along with other

minimal cost bills could cause the Department of Consumer Protection to go beyond the anticipated budgetary resources of the agency.

OLR Bill Analysis

sHB 5586

AN ACT CONCERNING A CONSUMER'S RIGHT TO PRIVACY.**SUMMARY:**

This bill, with certain exceptions, prohibits retailers who issue discount cards from selling, leasing, or relinquishing consumer information (1) without giving the consumer reasonable prior written notice and the opportunity to object to the disclosure or (2) after a consumer objects. "Consumer information" is identifying information obtained from a consumer's use of a discount card or device issued by a retailer in the course of business, other than financial information. "Financial information" is information identifying a consumer's checking, savings, credit card, or debit card account number, or the names of the institutions in which the consumer has these accounts. The bill prohibits these retailers from relinquishing financial information.

A violation is an unfair trade practice.

EFFECTIVE DATE: October 1, 2000

RETAILERS

The bill applies to retailers who (1) sell goods primarily for personal, family, or household use at retail and (2) issue or have issued discount cards or devices in this state.

NOTICE REQUIREMENTS

The bill requires consumer notices to:

1. state that the consumer information may be sold, leased, or relinquished to other people, firms, or corporations;
2. describe of how the information would be used; and
3. include a form the consumer may use to prevent the retailer from

releasing the information.

Retailers must permit consumers to object to disclosure when they apply for a card or receive an unsolicited card.

EXCEPTIONS

Retailers may relinquish consumer information to another person, firm, or corporation without notice or the opportunity to object for purposes of delivering the retailer's own promotional offers.

Retailers may relinquish consumer or financial information to another person, firm, or corporation (1) for the purpose of delivering billing statements and (2) if the discount card is also a credit card, for the purpose of making a credit report. The bill does not apply to the exchange of information between (1) subsidiaries of the same parent company or (2) parent companies and their subsidiaries.

BACKGROUND

Connecticut Unfair Trade Practices Act

Under the act, the consumer protection commissioner may investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties up to \$5,000 for willful violations and \$25,000 for violating restraining orders.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 14 Nay 0